

## **REMARKS**

Applicants would like to thank the Examiner for the careful consideration given to the present application. The present application currently has claims 25-30 pending. The application has been carefully reviewed in light of the Office Action. Applicants respectfully submit that the claims are patentable over the cited references for at least the reasons set forth below. Reconsideration of this application is hereby requested.

### **Claim Rejections – 35 U.S.C. 112**

The Examiner has rejected claim 30 under 35 U.S.C. 112 as being indefinite. The Examiner has stated that it is not understood how a tear line can have ends separated by a space which is not perforated. The Examiner states that the tear line would have to include three tear lines, as in Figure 4.

Applicants have amended claim 30 in order to address the Examiner's rejection and it is believed that claim 30 is now in condition for allowance.

### **Claim Rejections – 35 U.S.C. 103**

The Examiner has rejected claims 25 and 28-30 under 35 U.S.C. 103(a) as being unpatentable over applicants admitted prior art in the specification page 1, lines 10-27 and page 2, lines 10-14 in view of Buschman (U.S. Patent No. 4,102,072) and Teter et al. (U.S. Patent No. 6,112,665). Applicants traverse this rejection.

In order to establish *prima facie* obviousness of a claimed invention, *all the claim limitations* must be taught or suggested by the prior art. *In re Royka*, 180 USPQ 580 (CCPA 1974). The teaching or suggestion to make the claimed combination and reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). However, Applicants do not believe that all of the claimed elements have been disclosed by the cited references or that claim limitations have been suggested by the references.

The Examiner states that Applicants admitted prior art discloses the idea of placing paint chips in a rack, the idea of using paint chips with a plurality of colors on a single card and the

idea of covering a paint chip with a single color. The Examiner further states that applicants prior art discussion does not disclose whether the display rack includes a wall that covers a chip section and the idea of placing perforations in the card to form a paint chip section. The Examiner has combined Applicants prior art statement with the teachings in Buschman and Teter to make the instant rejection. Applicants do not believe that independent claim 25 is obvious in light of the cited references. Moreover, all of the claims depending from claim 25 also cannot be obvious, for at least the reason that claim 25 is not obvious.

With respect specifically with the Examiner's combination of Buschman with Applicants prior art discussion, the Examiner states that Buschman shows in figures 1-3 the idea of placing paint color cards within pockets formed on a display rack which includes walls – designated by numerals 18a, 18, 18b – which would prevent the chip section from being grabbed by the prospective purchaser who would remove the paint color card from the display rack. Claim 25, and necessarily the claims depending from claim 25, states that the first surface of the paint color card and the chip section are directed outwardly and covered by a wall. The Buschman reference does not contemplate that the display device described therein provides any function other than mere display of the paint cards. The Buschman reference does not discuss nor contemplate the need to preserve the integrity of any particular portions or characteristics of a paint color card. Other than the Examiner's assertion that the pockets provided by Buschman would prevent the chip section from being grasped, there is no evidence from the teaching of Buschman that any portion of the chip section as Applicants have described and claimed it would be covered by the wall as defined by Applicant. Buschman in no way contemplates the display of a single-color color card that includes perforations that define a chip section within the color card. Therefore, it does not appear that there is or even would be any suggestion or motivation in Buschman (or for that matter Teter or any of the prior art disclosed in the subject application) to provide for a wall that covers any portion of a chip section so that the wall prevents a chip section from being grabbed. Applicants claim 25 requires that the first surface of the chip section is covered by the wall to prevent the chip section from being grabbed by a prospective purchaser. Buschman not only fails to teach or suggest that the display rack can be used to display color cards with a defined chip section but also fails to teach or suggest that it is designed to protect the detachment of the defined chip section.

The Buschman reference merely provides a structure for holding color cards, but it does not provide for a structure that is desirable for holding the cards as defined by Applicants' claims. Buschman teaches only use of the display rack to display and secure paint cards, however, Buschman does not provide any motivation for exposing only part of the paint cards in any way that reflects the need to protect the integrity or function of the cards. Because Applicants color card is a paint color card with a defined chip section, it is important that the wall provide protection against accidental dislodgement of the chip. Again, the Examiner has not provided any evidence to show that the wall described by Buschman would at all cover the chip section, but has only asserted that Buschman discloses a wall that is capable of covering a chip section.

Applicants also maintain and respectfully ask the Examiner to reconsider the arguments previously presented with respect to combination of the Teter reference.

For the foregoing reasons, Applicants do not believe that the cited references disclose all of the claimed element of Applicants' claim 25. If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending from the independent claim is also nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). Because Applicants do not believe that claim 25 is obvious in light of the cited prior art, claims depending from claim 25 should also not be obvious.

With respect to claims 26 and 27, Applicants traverse this rejection. As Applicants have stated above, Buschman does not disclose all of the claimed element of Applicants' claim 25 even in light of the other cited references. As such, independent claim 25 is not obvious and claims 26 and 27, depending from claim 25, are also not obvious.

#### **Additional Comments**

It should be noted that in the arguments presented in the Request for Continued Examination filed on December 9, 2005, Applicants inadvertently interchanged numerals 7 and 30. In the last paragraph on page 5 of the Request for Continued Examination, Applicants reference numeral 30 of the Crosslen reference as representing the back wall, and Applicants reference numeral 7 of the Crosslen reference as the wall asserted by the Examiner to cover the chip sections of Applicants color card. In fact, numeral 7 identifies the back wall and numeral

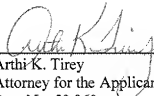
30 identifies the wall asserted by the Examiner to cover the chip sections of Applicants color card. This inadvertent interchange of numerals 7 and 30 does not affect the substance of Applicants argument with respect to the back wall and front wall provided in the Crosslen reference. Accordingly, Applicants maintain that there is no teaching, suggestion, or motivation in Crosslen to provide for a wall that covers any portion of a chip section so that the wall prevents a chip section from being grabbed.

In light of the foregoing, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If the Examiner has any questions with respect to the foregoing, he is invited to contact the undersigned. Applicants would like to again thank the Examiner for his review of the subject application.

Respectfully submitted,

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